

For: State and County Offices

**Release of Liability/Guaranteed Loans**

**Approved by:** Deputy Administrator, Farm Credit Programs

*Sau Anne Kling*

**1 Overview**

**A**

**Background**

Except for cases involving transfer and assumption (see FmHA Instruction 1980-B, section 1980.123(f)), FmHA Instructions 1980-A and 1980-B are silent on the issue of lenders' granting release of liability to borrowers.

**B**

**Purpose**

This notice provides additional guidance regarding the information and actions that need to be considered before consenting to a lender's request for release of liability for guaranteed FCP borrowers.

**2 Releasing Borrower From Liability**

**A**

**Authority**

If it is determined to be in the Government's best interest, SED may concur with a lender's request to release a borrower from liability, according to subparagraphs B and C. Resolve any legal question concerning the lender's or borrower's activities with OGC before releasing the borrower from liability.

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**Disposal Date**

February 1, 1997

**Distribution**

State Offices; State Offices relay to County Offices and Ag Credit Teams

## 2 Releasing Borrower From Liability (Continued)

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### B

#### Divorce

When borrowers have been divorced and one of the individuals has withdrawn from the operation, the individual who has withdrawn from the operation may be released from liability. The lender must provide documentation showing that all of the following conditions have been met:

- a divorce decree or final property settlement shows the withdrawing party is not responsible for the loan payments
  - the withdrawing party's interest in the security is conveyed to the person/entity with whom the loan will be continued
  - the withdrawing party does not have present or likely future repayment ability or other assets to apply on the debt.
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### C

#### Liquidation of the Account

According to FmHA Instruction 1980-B, section 1980.146.(d)(1)(iii), the lender is responsible for making the maximum collection possible when liquidating guaranteed loans. Making the maximum collection possible on the indebtedness includes more than just collections resulting from the disposal of collateral. The lender must specify in its liquidation plan how to collect any remaining loan balances after the collateral has been liquidated from guarantors and/or through judgments. Any proposal to release the borrower/guarantor from liability should be addressed in the liquidation plan.

To ensure that adequate consideration has been given, before releasing a borrower/guarantor from liability, the following should be considered:

- potential income
  - inheritance prospects
  - the possibility that collateral has not been properly accounted for
  - the availability of other income or assets which are not security for the guaranteed debt
  - the possibility that assets have been concealed or improperly transferred
  - the effect of other guarantors on the loan
  - cash consideration or other collateral in exchange for the release of liability.
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**2 Releasing Borrower From Liability (Continued)**

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**D**

**Contact**

Direct questions about this notice to the Guaranteed Loan Servicing Branch through the Area Office.

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**E**

**Obsolete  
Material**

This notice replaces FmHA AN No. 3121 (1980-B) which expired January 31, 1996.

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